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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,308	10/31/2003	Tremitchell Wright	US20030459	3931

7590 10/20/2005

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EXAMINER	
KHAN, AMINA S	
ART UNIT	**PAPER NUMBER**
1751	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/699,308	WRIGHT ET AL.	
	Examiner	Art Unit	
	Amina Khan	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-50* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-50* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *31 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Oath/Declaration

1. It does not identify the citizenship of each inventor. The citizenship of Christopher Deboer is a zip code instead of a country. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-11,15,27,37 and 42-50 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter that was not described in the specification. The claim language "commercial group of non-spark generating materials" has no basis in the specification. The examiner is unclear as to what compounds comprise "commercial group of non-spark generating materials". The examiner suggests that the applicant define the non-spark generating materials in the claim. Appropriate clarification of the claim language is required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3,15,16,27,37,38,44 and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner is unclear as to the meaning of the claim language "substantially all materials". The examiner requests

that the applicant define the terms materials (are they fabrics or classes of compounds?) and substantially. Appropriate clarification of the claim language is required.

Claims 1-22 and 24-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner is unclear as to what materials comprise the claim language "fabric". The examiner requests that the applicant define the term fabric in the independent claims 1,12,24,35 and 42. Appropriate clarification of the claim language is required.

Claims 6,7 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner is unclear as to the meaning of the claim language "appropriate times". The examiner requests that the applicant clearly define the term "appropriate times". Appropriate clarification of the claim language is required.

Claims 9,19,40 and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner is unclear as to the meaning of the claim language "appropriate adjustment". The examiner requests that the applicant define the term "appropriate adjustment" in terms of adjustment steps required. Appropriate clarification of the claim language is required.

Claims 24-34 and 42-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner is unclear as to the meaning of the claim language "adjusting steps in the cleaning method in response to the initial moisture content". The examiner requests that the applicant define clearly how the steps are adjusted. Appropriate clarification of the claim language is required.

Claims 10 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner is unclear as to the meaning of the claim language "subsequent adjustment of steps". The examiner requests that the applicant clearly define the terms "subsequent adjustment of steps" in terms of how the adjustment would be accomplished. Appropriate clarification of the claim language is required.

Claims 11,21,34,45 and 49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner is unclear as to the meaning of the claim language "means are taken". The examiner requests that the applicant clearly define the terms "means are taken" in terms of what comprises these means. Appropriate clarification of the claim language is required.

Claims 23,41,46 and 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner is unclear as to what specific

compounds comprise the surfactants with a hydrophilic-lipophilic balance from approximately 3 to 14. The court has held that compositions are indefinite for being defined in terms of properties alone. Ex parte Spacht 165 USPQ 409 (PO BdPatApp 1969); Ex parte Slob 157 USPQ 172 (PO BdPatApp 1967); Ex parte Pulvi 157 USPQ 169 (PO BdPatApp 1966). The examiner suggests that the applicant define the compounds that would comprise the claimed surfactants. Appropriate clarification of the claim language is required.

Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 35 recites the limitation "fabric 1" in line 19. There is insufficient antecedent basis for fabric 1 in the claim.

Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 23 recites the limitation "method of claim 26" in line 16. There is insufficient antecedent basis for claim 26 in the claim. Dependent claims must refer to a preceding claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4,35,36 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Estes et al. (US Patent #6,045,588).

The prior art of Estes et al. teaches methods of cleaning comprising delivering a wash liquor comprising a substantially non-reactive, non-aqueous, non-oleophilic, apolar working fluid and a washing additive to a fabric load confined in a wash container and applying mechanical energy (column 2, lines 56-63) as claimed in claims 1, 4 and 39. The prior art further teaches that the washing additive be chosen from surfactants, enzymes, bleaches, deodorizers, fragrances, anti-static agents and anti-stain agents (column 3, lines 27-31) as claimed in claim 35. The prior art further teaches that the working fluid has the following properties: surface tension of less than or equal to 35 dynes/cm^2; a KB value of less than or equal to 30; and solubility in water of less than about 10% (column 3, lines 1-6) as claimed in claims 2 and 36.

The prior art is silent as to the language "selected from the commercial group of non-spark generating materials" and do not explicitly teach the limitations of the working fluid "selected from the commercial group of non-spark generating materials" as recited in the instant independent claims. However, it is reasonable to presume that the working fluids "selected from the commercial group of non-spark generating materials" are encompassed by the prior art because the prior art teaches in its specification the same materials (perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons and fluoroinerts; column 3, lines 18-20) as taught in the specification of the instant application (perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons and fluoroinerts; page 13, paragraph 0129, lines 2-5) and the same properties of those

materials as the instant application. The burden is on the applicant to prove otherwise. In re Fitzgerald, 205 USPQ 594.

Accordingly, the broad teachings of Estes et al. anticipate the material limitations of the instant claims.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1,4,35 and 39 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims

1,6,15,16,30 and 31 of copending Application No. 10/957,486. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of copending Application No. 10/957,486 encompass the material limitations of the instant claims. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1,2,35,36 and 41 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6-9 of copending Application No. 10/699,159. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of copending Application No. 10/699,159 encompass the material limitations of the instant claims. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1 and 4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/027,431. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of copending Application No. 10/027,431 encompass the material limitations of the instant claims. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1 and 4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/520,653. Although the conflicting claims are not identical, they are

not patentably distinct from each other because the claims of copending Application No. 09/520,653 encompass the material limitations of the instant claims. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1,2,4,35,36,39 and 41 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of copending Application No. 10/698,920. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of copending Application No. 10/698,920 encompass the material limitations of the instant claims. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-50 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20,26 and 27 of copending Application No. 10/699,262. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of copending Application No. 10/699,262 encompass the material limitations of the instant claims. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1,2,35 and 36 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,6,8 and 9 of copending Application No. 10/957,487. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of

copending Application No. 10/957,487 encompass the material limitations of the instant claims. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amina Khan whose telephone number is (571) 272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amina Khan, PhD
Patent Examiner
October 12, 2005

NECHOLUS OGDEN
PRIMARY EXAMINER